

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

DAVID DANIEL NEVAREZ,

Plaintiff,

v.

KLEIN, *et al.*,

Defendants.

Case No. 1:21-cv-01752-BAM (PC)

ORDER REGARDING PLAINTIFF'S  
NOTICE OF VOLUNTARY DISMISSAL

(ECF No. 10)

Plaintiff David Daniel Nevarez ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 2, 2022, the Court screened Plaintiff's complaint and issued an order granting Plaintiff leave to file a first amended complaint or a notice of voluntary dismissal. (ECF No. 9.)

On March 14, 2022, Plaintiff filed a notice of voluntary dismissal. (ECF No. 10.)

"[U]nder Rule 41(a)(1)(A)(i), a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment."

*Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077 (9th Cir. 1999)

(quotation and citation omitted). "[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the parties are left as though no action had been brought, the defendant can't complain, and the district court lacks jurisdiction to do anything about it." *Id.* at 1078. No defendant has been served in this action and no defendant has filed an answer or motion for

1 summary judgment.

2 Accordingly, this action is terminated, without prejudice, by operation of law without  
3 further order from the Court. Fed. R. Civ. P. 41(a)(1)(A)(i). The Clerk of the Court is directed to  
4 terminate all pending motions and deadlines and close this case.

5  
6 IT IS SO ORDERED.

7 Dated: March 15, 2022

/s/ Barbara A. McAuliffe  
8 UNITED STATES MAGISTRATE JUDGE